

D.B. CIVIL SPECIAL APPEAL(W)NO.489/2007

D.M. Engineer, R.S.R.T.C.
Vs.
The Judge, Industrial Tribunal, Jaipur and Anr.

Date of Order :: 26-04-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri J.M. Saxena, for the appellant.

This special appeal against the order of the learned Single Judge, dismissing the writ petition of the appellant, arises from a proceeding under Section 33(2) (b) of the Industrial Disputes Act.

The appellant filed application seeking approval of the order by which the respondent was dismissed from service on the charge that on 25.3.1988 he caused accident on account of rash and negligent driving. The foundation of the charge was the finding of the Motor Accident Claims Tribunal in a proceeding in a claim case wherein allowing compensation to the claimants it was held the accident had occurred on account of rash and negligent driving.

The finding of the Claims Tribunal notwithstanding the employer was required to prove the charge by independent evidence, that the respondent was guilty of rash and negligent driving. In any view, if on reinstatement pursuant to the decision of the Labour

Court, conduct of the respondent has not been found to be unsatisfactory, it may not be proper exercise of discretion to interfere in the matter.

On evidence led by the parties before the labour Court, the labour Court came to the conclusion that the appellant failed to prove its case on rash and negligent driving on the part of the respondent. This is a finding of fact which cannot be interfered with in writ jurisdiction.

We find no error in the order of the learned Single Judge dismissing the writ petition.

The appeal is dismissed.

[MOHAMMAD RAFIQ], J.

[S.N. JHA], CJ.

Praveen